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10/576,952	04/24/2006	Toru Kawaguchi	P29804	6004

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER	
PEARSON, DAVID J	
ART UNIT	PAPER NUMBER
2137	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
pto@gbpatent.com

Office Action Summary	Application No.	Applicant(s)	
	10/576,952	KAWAGUCHI ET AL.	
	Examiner	Art Unit	
	DAVID J. PEARSON	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 April 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *07242006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1. Claims 10-12, 14 and 20-23 have been amended. Claims 1-25 have been examined.

Information Disclosure Statement

2. The information disclosure statement filed 07/24/2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Copies of the crossed off references have not been received. Form PCT/DO/EO/903 dated 12/22/2006 does not indicate the copies of the documents are present in the national stage file as required by MPEP 609.03. If receipt of such copies is not indicated on the PCT/DO/EO/903 form in the file, burden is on the applicant to supply copies for consideration. See MPEP § 1893.03(g).

The listing of references in the Search Report is not considered to be an information disclosure statement (IDS) complying with 37 CFR 1.98. 37 CFR 1.98(a)(2) requires a legible copy of: (1) each foreign patent; (2) each publication or that portion which caused it to be listed; (3) for each cited pending U.S. application, the application specification including claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion,

unless the cited pending U.S. application is stored in the Image File Wrapper (IFW) system; and (4) all other information, or that portion which caused it to be listed. In addition, each IDS must include a list of all patents, publications, applications, or other information submitted for consideration by the Office (see 37 CFR 1.98(a)(1) and (b)), and MPEP § 609.04(a), subsection I. states, "the list ... must be submitted on a separate paper." Therefore, the references cited in the Search Report have not been considered. Applicant is advised that the date of submission of any item of information or any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the IDS, including all "statement" requirements of 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Objections

3. Claims 16-17 are objected to because of the following informalities:

Claim 16 recites, "...restricted by the playback control information from said operating section." However, there is no "an operating section" in claim 16 or claim 13, which claim 16 depends on.

Claim 17 recites, "...wherein said operating section..." However, there is no "an operating section" in claim 17 or claim 13, which claim 17 depends on.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "the identification number" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites, "...associated by the issuer identification number and the identification number." Examiner believes "the issuer identification number" refers to "an identification number corresponding to the issuer identification information." There is no other "identification number" introduced in claims 1 and 12. It is unclear as to what "identification number" the last line of claim 12 is referring to

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-19 and 22-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-12 recite, "A content distribution server..." The components of the "server" are "a playback control information generation section", "a license information generation section", "a content encryption section", and "a communication section." Therefore, the "server" is composed entirely of components that could be considered

software. Note that claim 22 is a software program that causes the same steps as the components of the claim 1 "server." In order for claim 1 to be statutory, the "server" must include a physical component in all embodiments (e.g. memory, network connection, etc.). Note MPEP 2106.01.

Claims 13-19 recite, "A content playback control terminal..." The components of the "terminal" are "a content decoding section" and "a playback control information processing section." Therefore, the "terminal" is composed entirely of components that could be considered software. Note that claim 23 is a software program that causes the same steps as the components of the claim 13 "terminal." In order for claim 13 to be statutory, the "terminal" must include a physical component in all embodiments (e.g. memory, network connection, etc.). Note MPEP 2106.01.

Claims 22 and 23 recite, "A program that causes..." Computer programs are functional descriptive material and therefore, are non-statutory subject matter. A program must be stored on a computer readable medium, like found in claims 24-25, in order to become structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Note MPEP 2106.01.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1, 4-5, 10, 13-18 and 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lao et al. (U.S. Patent Application Publication 2002/0109707; hereafter referred to as "Lao"), and further in view of Tsusaka et al. (U.S. Patent Application Publication 2002/0065816; hereafter referred to as "Tsusaka").

For claims 1, 20, 22 and 24, Lao teaches a content distribution server, method, program and storage medium comprising:

A playback control information generation section that generates playback control information describing a playback mode restriction (note paragraph [0046]);

A license information generation section (note paragraph [0049]) that generates license information containing a content key for encrypting the content and generating encrypted content (note paragraph [0028]) and a usage condition describing an indication that only playback based on the playback control information is permitted for the encrypted content (note paragraph [0035]);

A content encryption section that generates the encrypted content in which the content has been encrypted with the content key (note paragraph [0028]); and

A communication section that transmits the playback control information, the license information, and the encrypted content (note paragraph [0028]).

Lao differs from the claimed invention in that they fail to teach:

Describing a playback made restriction for a section of content.

Tsusaka teaches:

Describing a playback made restriction for a section of content (note paragraphs [0155]-[0156]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the licensing, content encryption and usage conditions of Lao with the sectional usage conditions of Tsusaka. One of ordinary skill in the art would have been motivated to combine Lao and Tsusaka because it would allow a distributor to create one content with a plurality of uses instead of a plurality of different contents (note paragraphs [0010]-[0012] of Tsusaka).

For claim 4, the combination of Lao and Tsusaka teaches claim 1, wherein the playback control information comprises:

A description that sets a playback order of a plurality of sections of content (note paragraphs [0155]-[0156] of Tsusaka); and

A description that restricts playback of the sections of content in an order other than the set playback order (note paragraphs [0155]-[0156] and [0198] of Tsusaka).

For claim 5, the combination of Lao and Tsusaka teaches claim 1, wherein the playback control information comprises:

A description that specifies the section of content (note paragraph [0142] of Tsusaka);

A description that indicates a time subject to restrictions for the section of content (note paragraph [0046] of Lao); and

A description that restricts playback of the section of content in case of the time (note paragraph [0046] of Lao).

For claim 10, the combination of Lao and Tsusaka teaches claim 1, wherein the playback control information is described by a hierarchical structural description using XML (note paragraph [0051] of Lao).

For claims 13, 21, 23 and 25, the combination of Lao and Tsusaka teaches a content playback control terminal, method, program and storage medium comprising:

A content decoding section that decodes encrypted content (note paragraph [0028] of Lao); and

A playback control information processing section that obtains playback control information describing a playback mode restriction for the section of the content (note paragraphs [0186]-[0187] of Tsusaka), and gives said content decoding section a decoding instruction based on the playback control information (note paragraph [0030] of Lao).

For claim 14, the combination of Lao and Tsusaka teaches claim 13, wherein said content decoding section obtains license information containing a content key for generating the encrypted content (note paragraph [0028] of Lao) and a usage condition describing an indication that only playback based on the playback control information is permitted for the encrypted content (note paragraph [0038] of Lao and paragraph [0142] of Tsusaka), and decodes and plays back the section of content (note paragraph [0187] of Tsusaka) by the encryption key based on the playback control information (note paragraph [0028] of Lao).

For claim 15, the combination of Lao and Tsusaka teaches claim 13, further comprising an operating section that receives a content operation request (note paragraph [0189] of Tsusaka);

Wherein said operating section does not accept an operation restricted by the playback control information (note paragraph [0191] of Tsusaka).

For claim 16, the combination of Lao and Tsusaka teaches claim 13, wherein said content decoding section does not accept an operation restricted by the playback control information from said operation section (note paragraph [0191] of Tsusaka).

For claim 17, the combination of Lao and Tsusaka teaches claim 13, wherein said operating section indicates operations distinctively between an operation related to

a restricted playback mode in the section of content and an operation related to an unrestricted playback mode in the section of content (note paragraphs [0189]-[0192] of Tsusaka).

For claim 18, the combination of Lao and Tsusaka teaches claim 13, wherein, when the section of content is being executed in a restricted playback mode, said playback control information processing section changes to an unrestricted playback mode (note paragraph [0212] of Tsusaka).

7. Claims 2-3, 8 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Lao and Tsusaka as applied to claims 1 and 13 above, and further in view of Russell et al (U.S. Patent Application Publication 2002/0049679, hereafter referred to as "Russell").

For claim 2, the combination of Lao and Tsusaka teaches claim 1, wherein the playback control information comprises:

A description that specifies the section of content (note paragraph [0142] of Tsusaka).

The combination of Lao and Tsusaka differs from the claimed invention in that they fail to teach:

A description that restricts at least one playback method among stop, pause, rewind, forward, skip, jump, and record, for the section of content.

Russell teaches:

A description that restricts at least one playback method among stop, pause, rewind, forward, skip, jump, and record, for the section of content (note paragraph [0074]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the combination of Lao and Tsusaka and the prevention of rewinding and fast forwarding of Russell. One of ordinary skill would have been motivated to combine Lao, Tsusaka and Russell because it would prevent a user from circumventing the digital rights management by watching almost all of a video, then rewinding it back to the beginning (note paragraph [0074] of Russell).

For claim 3, the combination of Lao, Tsusaka and Russell teaches claim 1, wherein the playback control information comprises:

A description that specifies the section of content (note paragraph [0142] of Tsusaka); and

A description that restricts at least one of time skipping spanning the section of content and jumping to a specified time (note paragraph [0074] of Russell).

For claim 8, the combination of Lao, Tsusaka and Russell teaches claim 1, wherein the playback control information comprises:

A description that specifies the section of content (note paragraph [0142] of Tsusaka);

A description that indicates information related to a terminal subject to restrictions for the section of content (note paragraph [0049] of Russell); and

A description that restricts playback of the section of content for the terminal subject to restrictions (note paragraph [0049] of Russell).

For claim 19, the combination of Lao, Tsusaka and Russell teaches claim 13, wherein said content decoding section and said playback control information processing section are tamper-proof security modules (note paragraph [0067] of Russell).

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Lao and Tsusaka as applied to claim 5 above, and further in view of Molaro (U.S. Patent Application Publication 2004/0139027).

For claim 6, the combination of Lao and Tsusaka differs from the claimed invention in that they fail to teach, wherein a description related to an acquisition location of current time is described in the playback control information.

Molaro teaches:

Wherein a description related to an acquisition location of current time is described in the playback control information (note paragraph [0040]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the combination of Lao and Tsusaka and the current time acquisition of Molaro. One of ordinary skill in the art would have been motivated to combine Lao, Tsusaka and Molaro because it would ensure the playback device accurately measures the validity period (note paragraph [0049] of Molaro).

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Lao and Tsusaka as applied to claim 1 above, and further in view of Vogler et al. (U.S. Patent Application Publication 2004/0193902; hereafter referred to as "Vogler").

For claim 7, the combination of Lao and Tsusaka teaches claim 1, wherein the playback control information comprises:

A description that specifies the section of content (note paragraph [0142] of Tsusaka);

The combination of Lao and Tsusaka differs from the claimed invention in that they fail to teach:

A description that indicates an environmental status subject to restrictions for the section of content; and

A description that restricts playback of the section of content in case of the environmental status.

Vogler teaches:

A description that indicates an environmental status subject to restrictions for the section of content (note paragraph [0017]); and

A description that restricts playback of the section of content in case of the environmental status (note paragraph [0018]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the combination of Lao and Tsusaka and the location (environmental status) rules of Vogler. One of ordinary skill would have been motivated to combine Lao, Tsusaka and Vogler because it would allow flexibility in controlling the location of where content can and can not be rendered (note paragraph [0015] of Vogler), such as a town where a sporting event is blacked out (note paragraph [0021] of Vogler).

10. Claims 9 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Lao and Tsusaka as applied to claim 1 above, and further in view of Ishibashi (U.S. Patent Application Publication 2001/0044786).

For claim 9, the combination of Lao and Tsusaka teaches claim 1, wherein the playback control information comprises:

A description that specifies the section of content (note paragraph [0142] of Tsusaka).

The combination of Lao and Tsusaka differs from the claimed invention in that they fail to teach:

A description that indicates information related to a user subject to restrictions for the section of content; and

A description that restricts playback of the section of content for the user subject to restrictions.

Ishibashi teaches:

A description that indicates information related to a user subject to restrictions for the section of content (note paragraph [0209]); and

A description that restricts playback of the section of content for the user subject to restrictions (note paragraph [0209]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the combination of Lao and Tsusaka and the user restrictions of Ishibashi. One of ordinary skill would have been motivated to combine Lao, Tsusaka and Ishibashi because it would allow the content to be distributed among a plurality of users and still retain the ability to collect the content usage fees (note paragraph [0193] of Ishibashi).

For claim 11, the combination of Lao, Tsusaka and Ishibashi teaches claim 1, wherein:

Issuer identification information that identifies an issuer is attached to the playback control information and a usage condition of the license information (note paragraph [0197] of Ishibashi); and

The playback control information and the usage condition are associated by the issuer identification number (note paragraph [0197] of Ishibashi).

For claim 12, the combination of Lao, Tsusaka and Ishibashi teaches claim 1, wherein:

Issuer identification information that identifies an issuer and an identification number corresponding to the issuer identification information are attached to the playback control information and a usage condition of the license information (note paragraph [0197] of Ishibashi); and

The playback control information and the usage condition are associated by the issuer identification number and the identification number (note paragraph [0197] of Ishibashi).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Davis et al. (U.S. Patent Application Publication 2003/0007664) teaches usage restrictions for recording, fast forwarding, rewinding and pausing (note paragraph [0023]).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. PEARSON whose telephone number is (571)272-0711. The examiner can normally be reached on Monday - Friday, 7:30am - 5:00pm; off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. J. P./
Examiner, Art Unit 2137

/Nasser G Moazzami/
Supervisory Patent Examiner, Art Unit 2136